APPEAL NO. 041117
FILED JULY 1, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on April 22, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first quarter. The appellant (self-insured) appealed the hearing officer's decision that the claimant is entitled to SIBs for the first quarter. There is no response from the claimant in the appeal file.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The parties stipulated that the claimant sustained a compensable injury on _____; that he received an impairment rating of 23%; that he did not commute his impairment income benefits; and that the qualifying period for the first quarter of SIBs began on September 21 and ended on December 20, 2003. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. At issue in this case is whether the medical reports from the claimant's physicians qualify as narratives indicating an inability to work during the qualifying period for the first quarter or whether they constitute an "other record" showing an ability to work.

From our review of the record and the hearing officer's discussion of the evidence, we can infer an implicit finding by the hearing officer that the medical reports from both Dr. H and Dr. S constitute adequate narratives and that they are not an "other record" that shows the claimant is able to return to work. The hearing officer discusses the details of the medical reports in the "Background Information" section of the Decision and Order. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust.

Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the challenged findings of the hearing officer.

For the above reasons, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

SA
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Robert W. Potts
Appeals Judge